
PRELIMINARY DRAFT
No. 3379

PREPARED BY
LEGISLATIVE SERVICES AGENCY
2004 GENERAL ASSEMBLY

DIGEST

Citations Affected: IC 12-17.2.

Synopsis: Expenses of meeting child care requirements. Amends certain child care statutes to specify that expenses of criminal history and drug testing requirements are not paid by the state.

Effective: July 1, 2004.



A BILL FOR AN ACT to amend the Indiana Code concerning human services.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 12-17.2-3.5-12, AS AMENDED BY P.L.18-2003, SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 12. (a) A provider shall, at ~~the provider's or individual's~~ **no expense to the state**, maintain and make available to the division upon request a copy of a limited criminal history for:

- (1) the provider, if the provider is an individual;
- (2) if the provider operates a child care program in the provider's home, any individual who resides with the provider and who is:
 - (A) at least eighteen (18) years of age; or
 - (B) less than eighteen (18) years of age but has previously been waived from juvenile court to adult court; and
- (3) any individual who:
 - (A) is employed; or
 - (B) volunteers;as a caregiver at the facility where the provider operates a child care program.

A provider shall apply for a limited criminal history for an individual described in subdivision (3) before the individual is employed or allowed to volunteer as a caregiver.

(b) In addition to the requirement under subsection (a), a provider shall report to the division any:

- (1) police investigations;
- (2) arrests; and
- (3) criminal convictions;

not listed on a limited criminal history obtained under subsection (a) regarding any of the persons listed in subsection (a).

(c) A provider that meets the other eligibility requirements of this chapter is temporarily eligible to receive voucher payments until the provider receives the limited criminal history required under subsection (a) from the state police department if:

- (1) the provider:



- 1 (A) has applied for the limited criminal history required under
 2 subsection (a); and
 3 (B) obtains a local criminal history for the individuals
 4 described in subsection (a) from each individual's local law
 5 enforcement agency before the individual is employed or
 6 allowed to volunteer as a caregiver; and
 7 (2) the local criminal history does not reveal that an individual
 8 has been convicted of a:
 9 (A) felony;
 10 (B) misdemeanor related to the health or safety of a child;
 11 (C) misdemeanor for operating a child care center without a
 12 license under IC 12-17.2-4-35; or
 13 (D) misdemeanor for operating a child care home without a
 14 license under IC 12-17.2-5-35.
 15 (d) A provider is ineligible to receive a voucher payment if an
 16 individual for whom a limited criminal history is required under this
 17 section has been convicted of a:
 18 (1) felony;
 19 (2) misdemeanor related to the health or safety of a child;
 20 (3) misdemeanor for operating a child care center without a
 21 license under IC 12-17.2-4-35; or
 22 (4) misdemeanor for operating a child care home without a
 23 license under IC 12-17.2-5-35;
 24 until the individual is dismissed from employment or volunteer service
 25 at the facility where the provider operates a child care program or no
 26 longer resides with the provider.
 27 (e) A provider shall maintain a written policy requiring a
 28 individual for whom a limited criminal history is required under this
 29 section to report any criminal convictions of the individual to the
 30 provider.
 31 SECTION 2. IC 12-17.2-3.5-12.1, AS AMENDED BY P.L.18-2003,
 32 SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 33 JULY 1, 2004]: Sec. 12.1. (a) A provider shall, ~~at the provider's or~~
 34 ~~individual's~~ **no expense to the state**, maintain and make available to
 35 the division upon request a copy of drug testing results for:
 36 (1) the provider, if the provider is an individual;
 37 (2) if the provider operates a child care program in the provider's
 38 home, any individual who resides with the provider and who is at
 39 least eighteen (18) years of age; and
 40 (3) an individual who:
 41 (A) is employed; or
 42 (B) volunteers;
 43 as a caregiver at the facility where the provider operates a child
 44 care program.
 45 The drug testing results for an individual described in subdivision (3)
 46 must be obtained before the individual is employed or allowed to



1 volunteer as a caregiver.

2 (b) A provider that is not a child care ministry or a child care center
3 shall maintain a written policy specifying the following:

4 (1) That the:

5 (A) use of:

6 (i) tobacco;

7 (ii) alcohol; or

8 (iii) a potentially toxic substance in a manner other than the
9 substance's intended purpose; and

10 (B) use or possession of an illegal substance;

11 is prohibited in the facility where the provider operates a child
12 care program when child care is being provided.

13 (2) That drug testing of individuals who serve as caregivers will
14 be:

15 (A) performed on a random basis, based on a protocol
16 established or approved by the division; and

17 (B) required if an individual is suspected of noncompliance
18 with the requirements specified under subdivision (1).

19 (c) A provider that is a child care ministry or a child care center
20 shall maintain a written policy specifying the following:

21 (1) That the:

22 (A) use of:

23 (i) tobacco; or

24 (ii) a potentially toxic substance in a manner other than the
25 substance's intended purpose; and

26 (B) use or possession of alcohol or an illegal substance;

27 is prohibited in the facility where the provider operates a child
28 care program when child care is being provided.

29 (2) That drug testing of individuals who serve as caregivers will
30 be:

31 (A) performed on a random basis, based on a protocol
32 established or approved by the division; and

33 (B) required if an individual is suspected of noncompliance
34 with the requirements specified under subdivision (1).

35 (d) If:

36 (1) the drug testing results obtained under subsection (a), (b), or
37 (c) indicate the presence of a prohibited substance described in
38 subsection (b)(1)(A)(ii), (b)(1)(A)(iii), (b)(1)(B), (c)(1)(A)(ii), or
39 (c)(1)(B); or

40 (2) an individual refuses to submit to a drug test;

41 the provider is ineligible to receive a voucher payment until the
42 individual is suspended or terminated from employment or volunteer
43 service at the facility or no longer resides with the provider.

44 (e) A provider that suspends an individual described in subsection
45 (d) shall maintain a written policy providing for reinstatement of the
46 individual following rehabilitation and drug testing results that are



negative for a prohibited substance described in subsection (b)(1)(A)(ii), (b)(1)(A)(iii), (b)(1)(B), (c)(1)(A)(ii), or (c)(1)(B).

(f) Drug testing results obtained under this section are confidential and may not be disclosed for any purpose other than the purpose described in this section.

SECTION 3. IC 12-17.2-4-3.5, AS ADDED BY P.L.18-2003, SECTION 26, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 3.5. (a) A child care center shall, at ~~the child care center's or individual's~~ **no expense to the state**, maintain and make available to the division upon request a copy of drug testing results for an individual who:

- (1) is employed; or
- (2) volunteers;

as a caregiver at the child care center. The drug testing results required under this subsection must be obtained before the individual is employed or allowed to volunteer as a caregiver.

(b) A child care center shall maintain a written policy specifying the following:

(1) That the:

(A) use of:

- (i) tobacco; or
- (ii) a potentially toxic substance in a manner other than the substance's intended purpose; and

(B) use or possession of alcohol or an illegal substance;

is prohibited in the child care center when child care is being provided.

(2) That drug testing of individuals who serve as caregivers at the child care center will be:

(A) performed on a random basis, based on a protocol established or approved by the division; and

(B) required if an individual is suspected of noncompliance with the requirements specified under subdivision (1).

(c) If:

(1) the drug testing results obtained under subsection (a) or (b) indicate the presence of a prohibited substance described in subsection (b)(1)(A)(ii) or (b)(1)(B); or

(2) an individual refuses to submit to a drug test;

the child care center shall immediately suspend or terminate the individual's employment or volunteer service.

(d) A child care center that suspends an individual described in subsection (c) shall maintain a written policy providing for reinstatement of the individual following rehabilitation and drug testing results that are negative for a prohibited substance described in subsection (b)(1)(A)(ii) or (b)(1)(B).

(e) Drug testing results obtained under this section are confidential and may not be disclosed for any purpose other than the purpose



1 described in this section.

2 (f) A child care center that does not comply with this section is
3 subject to:

- 4 (1) denial of an application for a license; or
5 (2) suspension or revocation of a license issued;
6 under this chapter.

7 SECTION 4. IC 12-17.2-5-3.5, AS ADDED BY P.L.18-2003,
8 SECTION 29, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
9 JULY 1, 2004]: Sec. 3.5. (a) A child care home shall, at ~~the child care~~
10 ~~home's or individual's~~ **no expense to the state**, maintain and make
11 available to the division upon request a copy of drug testing results for:

- 12 (1) the provider;
13 (2) an individual who resides with the provider and who is at least
14 eighteen (18) years of age; and
15 (3) an individual who:
16 (A) is employed; or
17 (B) volunteers;
18 as a caregiver at the child care home.

19 The drug testing results for an individual described in subdivision (3)
20 must be obtained before the individual is employed or allowed to
21 volunteer as a caregiver.

22 (b) A child care home shall maintain a written policy specifying the
23 following:

- 24 (1) That the:
25 (A) use of:
26 (i) tobacco;
27 (ii) alcohol; or
28 (iii) a potentially toxic substance in a manner other than the
29 substance's intended purpose; and
30 (B) use or possession of an illegal substance;
31 is prohibited in the child care home when child care is being
32 provided.
33 (2) That drug testing of individuals who serve as caregivers at the
34 child care home will be:
35 (A) performed on a random basis, based on a protocol
36 established or approved by the division; and
37 (B) required if an individual is suspected of noncompliance
38 with the requirements specified under subdivision (1).

39 (c) If:
40 (1) the drug testing results obtained under subsection (a) or (b)
41 indicate the presence of a prohibited substance described in
42 subsection (b)(1)(A)(ii), (b)(1)(A)(iii), or (b)(1)(B); or
43 (2) an individual refuses to submit to a drug test;
44 the child care home shall immediately suspend or terminate the
45 individual's employment or volunteer service.

46 (d) A child care home that suspends an individual described in



1 subsection (c) shall maintain a written policy providing for
2 reinstatement of the individual following rehabilitation and drug testing
3 results that are negative for a prohibited substance described in
4 subsection (b)(1)(A)(ii), (b)(1)(A)(iii), or (b)(1)(B).

5 (e) Drug testing results obtained under this section are confidential
6 and may not be disclosed for any purpose other than the purpose
7 described in this section.

8 (f) A child care home that does not comply with this section is
9 subject to:

- 10 (1) denial of an application for a license; or
11 (2) suspension or revocation of a license issued;
12 under this chapter.

